

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

IN THE MATTER OF
Richard J. Collins Estate,
Petitioner-Appellant,

v.

Webster County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-94-0014
Parcel No. 0517200002

Docket No. 09-94-0015
Parcel No. 0516100005

On September 17, 2009, the above-captioned appeals came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Richard J. Collins Estate (Collins Estate), requested a hearing and submitted evidence in support of its petition. Collins Estate designated Mary Collins Gardalen, daughter of the decedent, as its legal representative. The Board of Review designated Assistant County Attorney Cori Kuhn-Coleman as its legal representative. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Collins Estate, owner of agricultural property located in Webster County, Iowa, appeals from the Webster County Board of Review decisions reassessing its property. According to the certified record, parcel 0517200002 is 38.18 acres of agricultural land and is assessed at \$51,280, an increase from the \$17,200 assessed value in 2008. Parcel 0516100005 is 32.94 acres and is assessed at \$44,230, an increase from the 2008 assessed value of \$17,020.

Collins Estate protested to the Board of Review on the grounds that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b) and that there was an

error in the assessed under section 441.37(1)(d). It claimed that parcel 0517200002 should be valued at \$27,004, and parcel 0516100005 should be valued at \$26,721. The Board of Review denied the protests. Collins Estate then appealed to this Board. It reasserted the claim of over-assessment.

Ms. Gardalen testified that Collins Estate was not challenging the Corn Suitability Ratings (CSR) for the land or the State rules for calculating value using the modern soil survey; however, she believes that there are mitigating circumstances that should reduce the assessments of the two parcels. Specifically, according to Ms. Gardalen, much of the land is in pasture, a creek runs through both parcels, and the nearby land is subject to seasonal flooding. She submitted photographs from 2008 illustrating the flooding problem. Collins Estate provided aerial maps showing each parcel with the creek, row crop, and pasture clearly visible.

Additionally, the appellant provided 2008 and 2009 assessments for neighboring property with the percentage of change for all which ranged from a 16.58% to a 159.87% increase. The Collins Estate property increased 69.2% and 198.13% respectively compared to the previous values. An Iowa Department of Revenue chart indicated the overall productivity value of Webster County agricultural land and buildings combined increased by 47% from 2008 to 2009.

Board of Review Chair James Kesterson was present at hearing and testified that he was familiar with the parcels and acknowledged flooding in 2008. He stated that although the Board was sympathetic with the flooding problem, it did not believe it could change the assessment under Department of Revenue rules. Mr. Kesterson offered a personal opinion on the value of the parcels, however, this was not deemed credible because Collins Estate legal representative, Mary Gardalen, is his sister-in-law and this conflict of interest required recusal at Board of Review.

The Board of Review provided Soil Calculation Reports for both parcels. The report uses the modern soil survey to calculate the productivity and earning capacity value for the land. The modern

soil survey has built-in factors for slope and erosion, factors which determine suitable land use. The Collins Estate soil report has numerous symbols identifying slop and erosion conditions.

The reports noted each soil code and name, identified spots, recorded the net acres, and provided the adjusted CSR points. On parcel 05-17-200-002, the soil slope ranged from level to moderate erosion was indicated for 3.37 acres. A total of 2.26 acres received no CRS points due to water conditions. The parcel received 2870.06 total CSR units valued county-wide at \$17.867 per unit which resulted in the assessed value of \$51,280 ($2870.06 \times \$17.867 = \$51,280$).

On parcel 05-16-100-005, the soil slope ranged from level to nearly level, no erosion was noted, and 1.67 acres received no CRS points due to water conditions. The parcel received 2478.81 total CSR units valued county-wide at \$17.867 per unit which resulted in the assessed value of \$44,230 ($2478.81 \times \$17.867 = \$44,230$).

The *Iowa Real Property Appraisal Manual*¹ states that a basic assumption in the CSR system is that the ratings are related primarily to the productivity of the land and that any factor that detracts from the agricultural productivity of the land requires adjustment. The manual recommends on-site investigation for situations not specifically shown on the soil map by symbols such as use limitations imposed by small area and/or location caused by drainage-ways not crossable with tillage equipment; areas requiring artificial drainage which cannot be drained due to lack of an outlet or other physical limitation; areas subject to overflow by streams; areas covered with scattered timber or brush and heavily timbered areas. While the Soils Calculation Reports note some features which limit use, onsite inspections are advised during the next re-assessment to determine further adjustments that may be warranted.

The Collins Estate assessments have increased dramatically from the prior assessment year, but, the soil calculation reports indicate compliance with the productivity valuation method used by the

¹ Assessors are required to use the manual in determining the actual value of agricultural real estate. Iowa Administrative Code rules 701-71.3.

assessor and required by the State. Assessor Jeanette R. Thanupakorn provided a written statement indicating increases calculated by Department of Revenue in the 5-year productivity value and the ag factor, combined with the use of the new county soil survey resulted in higher agricultural land values county-wide in 2009. It is evident that the property was properly valued giving exclusive consideration to the land's productivity and net earning capacity using the modern soil survey, as required by the administrative rules. We find that Collins Estate has failed to prove that the property is assessed for more than authorized by law.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

Iowa Code section 441.21 provides that agricultural real estate be assessed at its actual value by giving exclusive consideration to its productivity and net earning capacity. Iowa Code § 441.21(1)(e). In determining the productivity and net earning capacity of agricultural real estate, the assessor is required to use available data from the Iowa State University, the Iowa crop and livestock

reporting service, the department of revenue, the *Iowa Real Property Appraisal Manual*, and the results of a modern soil survey, if completed. Iowa Administrative Code r. 701-71.3.

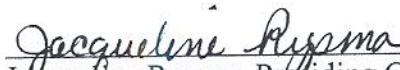
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

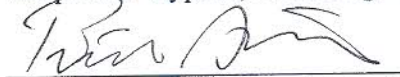
Viewing the evidence as a whole, we determine the Collins Estate failed to prove that its properties are over-assessed because it was properly valued based on its productivity and earning capacity using the modern soil survey as prescribed by section 441.21(1)(e) and administrative rule.701-71.3. We believe an on-site inspection by the assessor is appropriate and necessary to determine if further spot adjustments are warranted. We, therefore, affirm the Collins Estate property assessments as determined by the Board of Review. The Appeal Board determines the January 1, 2009 assessment value for parcel 0517200002 is \$51,280 and for parcel 0516100005 is \$44,230.

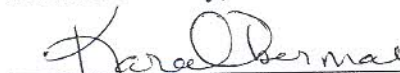
THE APPEAL BOARD ORDERS that the January 1, 2009, assessments, as determined by the Webster County Board of Review, are affirmed.

The Secretary of the Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Webster County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 21 day of October 2009.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

Copies to:

Mary J. Gardalen

309 N. 18th Street

Fort Dodge, IA 50501

LEGAL REPRESENTATIVE FOR APPELLANT

Cori Kuhn-Coleman

Webster County Attorney

702 1st Avenue S

Fort Dodge, IA 50501

ATTORNEY FOR APPELLEE

Carol Messerly

Webster County Auditor

703 Central Avenue

Fort Dodge, IA 50501

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-31</u> , 200 <u>9</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>Janet Kuhn</i></u>